

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

MONTEZ KENNEDY,

Plaintiff,

v.

Case No. 2:07-cv-207
HON. R. ALLAN EDGAR

DENVER MCBURNEY, et al.,

Defendants.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on February 18, 2009. The Report and Recommendation was duly served on the parties. The Court has received objections from plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

Plaintiff has asserted a number of “factual errors” were made in the Report and Recommendation. The court will accept plaintiff’s corrections. Nevertheless, this case is properly dismissed. Plaintiff has failed to show that defendants took any action that violated plaintiff’s access to the courts. Defendant McBurney has established that he processed plaintiff’s legal mail. Similarly, plaintiff has presented no facts to show that his legal mail was improperly read in violation of his constitutional rights.

Plaintiff has not shown that defendants took any retaliatory actions. Defendants are entitled to dismissal of plaintiff's due process claims. Moreover, plaintiff explains that he believes that his liberty interest arises from the Eighth Amendment. However, plaintiff has not shown that defendants violated his Eighth Amendment rights.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (Docket #57) is approved and adopted as the opinion of the Court.

Dated: 3/26/09

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE